



Information **UPDATE**

Wisconsin Department of Public Instruction/Elizabeth Burmaster, State Superintendent/P.O. Box 7841/ Madison, WI 53707-7841

BULLETIN NO. 02.04

July 2002

TO: District Administrators, CESA Administrators, CCDEB Administrators,
Directors of Special Education and Pupil Services, and Other Interested Parties

FROM: Carolyn Stanford Taylor, Assistant State Superintendent
Division for Learning Support: Equity and Advocacy

SUBJECT: Consent for the Initial Provision of Special Education Under the Individuals
with Disabilities Education Act (IDEA); Procedural Safeguards Notice

As required by the IDEA, Wisconsin submitted state IDEA policies and procedures to the Office of Special Education Programs (OSEP), U.S. Department of Education. Upon review, OSEP informed the Department of Public Instruction that Wisconsin may not permit a local educational agency (LEA) to initiate a due process hearing to override a parent's refusal to consent for the initial provision of special education. OSEP's reasoning is set out in a September 24, 2001, letter to H. Douglas Cox, Assistant Superintendent, Virginia Department of Education. This letter can be accessed at <http://www.ed.gov/offices/OSERS/OSEP/Policy/3q2001pl/cox092401eval3q2001.pdf>. OSEP's letter states that while the IDEA does not permit an LEA to override a parent's refusal to consent to special education, it does permit an LEA to offer mediation and explain to the parent the consequences of withholding consent to the child's education.

Wisconsin and several other states urged OSEP to review this issue further. OSEP conducted that review and again concluded that an LEA may not initiate a hearing to override a parent's refusal to consent for the initial provision of special education. OSEP directed Wisconsin to revise its state IDEA policies and procedures to conform to the IDEA consent provision, and Wisconsin has done so. Also, OSEP directed Wisconsin to revise its procedural safeguards notice for parents to make clear that a public agency may not initiate a due process hearing to override a parent's refusal to consent to the initial provision of special education and related services. We have revised the procedural safeguards notice to include this change and other changes required by OSEP. These changes have significantly expanded the procedural safeguards notice. The revised notice is available at <http://www.dpi.state.wi.us/dpi/dlsea/een/pcrights.html> on the Special Education Team website. Questions regarding this bulletin may be directed to the Special Education Team at (608) 266-1781.

evw

This information update can also be accessed through the Internet:
<http://www.dpi.state.wi.us/dpi/dlsea/een/bulindex.html>